

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ANITA ARGOTT, :
:
Plaintiff :
v. : 1:22-CV-164
: (JUDGE MARIANI)
LACKAWANNA COUNTY, et al., :
:
Defendants :

ORDER

AND NOW, THIS 11th DAY OF JULY, 2023, upon *de novo* review of Magistrate Judge Susan Schwab's Report & Recommendation ("R&R") (Doc. 38), Defendants' Objections thereto (Docs. 39, 43, 44, 45), and all other relevant documents, IT IS HEREBY ORDERED THAT:

1. The R&R (Doc. 38) is **ADOPTED** for the reasons stated therein.¹
2. The County Defendants' Objections (Docs. 39, 43) are **OVERRULED**.
3. The Medical Defendants' Objections (Docs. 44, 45) are **OVERRULED**.

¹ The Court agrees with Judge Schwab's detailed and exhaustive legal and factual analysis in its entirety. Upon review of Defendants' lengthy briefs in support of their Objections, it is evident that the Defendants' extensive arguments in favor of their position that Judge Schwab erred in not fully granting their respective motions to dismiss are without merit. Defendants' disagreements with the R&R's analysis are unsupported by any persuasive authority or argument. The Objections largely set forth the basic applicable and undisputed law and, particularly with respect to the County Defendants' Objections, generally re-iterate the same arguments previously raised, and thoroughly addressed, by Judge Schwab. The Court nonetheless notes, as did Judge Schwab, that while the majority of Plaintiff's Amended Complaint adequately sets forth claims upon which relief can be granted and sufficient specific factual allegations therefor, this does not preclude the possibility that some of Defendants' arguments may ultimately succeed on summary judgment.

4. The County Defendants' Motion for Dismissal Under Fed. R. Civ. P. 12(b)(6)

(Doc. 28) is **GRANTED IN PART AND DENIED IN PART AS FOLLOWS:**

- a. The claims against Defendant Betti and the County Doe Defendants in their official capacities are **DISMISSED**.
- b. The claims against Lackawanna County, the Lackawanna County Prison Board, and Betti (in his individual capacity) by Plaintiff Argott that her constitutional rights were violated when she was placed on behavior watches are **DISMISSED**.
- c. All claims against the County Doe Defendants in their individual capacities are **DISMISSED**.
- d. The County Defendants' Motion is **DENIED** in all other respects.

5. The Motion for Partial Dismissal Pursuant to Fed. R. Civ. P. 12(b)(6) by

Defendants Correctional Care, Inc., and Dr. Edward Zaloga (Doc. 33) is

GRANTED IN PART AND DENIED IN PART AS FOLLOWS:

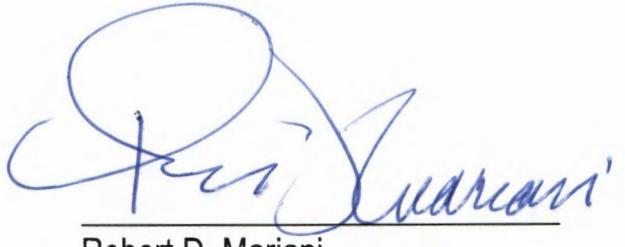
- a. The claims against CCI and Zaloga by Plaintiff Argott that her constitutional rights were violated when she was placed on behavior watches are **DISMISSED**.
- b. The Motion is **DENIED** in all other respects.

6. Plaintiff may file a Second Amended Complaint within **21 days** of the date of this

Order. Plaintiff's failure to timely file a Second Amended Complaint will result in

Plaintiff's Amended Complaint (Doc. 25) being deemed as the operative complaint in the above-captioned action.

7. The case is **REMANDED** to Magistrate Judge Schwab for further proceedings consistent with this Order.



Robert D. Mariani
United States District Judge